

REMARKS

Claim Objections

Claim 1 has been amended to overcome the objections stated in the Office Action.

35 USC §112

Claims 1, 3-6, and 8-16 stand rejected under §112. The current amendments overcome all stated 112 rejections.

Claims 1, 6 and 11 have been rejected for the recitation of a pivoting arm. The amendment establishes that the pivoting arm is connected to the tensioning arm, overcoming the rejection.

Claims 1 and 6 have been rejected for reciting that an end of the bell crank is pivotably mounted on the sidewall of the tailgate. The claims have been amended to recite that a fulcrum is so mounted. Applicant expressly points out that the claim is not limited to a fulcrum located at any particular position on the bell crank.

Claim 1 has been rejected for reciting that the latching mechanism is “on” the frontal part of the housing. The latching mechanism includes a latch, 28, that latches onto a pin or “spigot” 30. The claim has been amended to recite that the latching mechanism is engageable with the frontal part of the housing, by latching onto the spigot.

Claim 1 has been rejected for a disparity between the claim recitation of a latching mechanism and the “locking mechanism” recited in the specification at page 4, line 28. The amendment has been made because the Applicant appreciates and agrees with the Examiner’s notation that the terms should be consistent. However, Applicant expressly points out that this amendment does vary the scope of claim for three reasons. First of all, neither the word

“latching” nor the word “locking” appear in the original claim 1. Second of all, the interaction of pawl 28 and spigot 30 in a manner to retain the tailgate against the front part of the baler at the appropriate time may be considered either “latching” or “locking.” The currently amended claim scope covers such a mechanical interaction whether it be called latching or locking, insofar as the claim language may be properly construed under *Markman*. Finally, either the word locking or the word latching mechanism is a fair and accurate translation of the corresponding German term from the priority document.

Claims 4 and 9 have been amended to overcome the 112 rejection recited in the Office Action.

Claims 1, 3-6 and 8-16 have been rejected under §112, second paragraph. Claim 1 has been amended to eliminate the word [via] and add that the hydraulics cylinder is operatively engaged with the pivotable arm. This claim limitation is adequately supported throughout the specification. Further limitations detailing the operative engagement need not be added in the response to a 112 second paragraph rejection. Applicant is entitled to claim broadly, and there is adequate support for the operative engagement limitation. The “indefiniteness” mentioned in the Office Action has been eliminated and the currently amended language particularly points out and distinctly claims the subject matter of the invention.

With regard to claims 4 and 9, the amendment previously discussed eliminates any indefiniteness regarding the position of a fixed stop.

None of the above amendments narrows any claim limitation.

Allowable Subject Matter

Applicant concurs with Examiner's statement regarding reasons for allowance of claims 18-24. Applicant adds that further reasons for allowance are stated throughout the specification file history.

Conclusion

It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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